



Agenda Date: 6/7/00
Agenda Item: IV-A

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)	<u>RENEWAL</u>
CABLEVISION OF OAKLAND, INC. FOR)	<u>CERTIFICATE OF APPROVAL</u>
RENEWAL OF A CERTIFICATE OF APPROVAL)	
TO CONTINUE TO OPERATE AND MAINTAIN)	
A CABLE TELEVISION SYSTEM IN THE)	
TOWNSHIP OF TEANECK, COUNTY OF)	
BERGEN, STATE OF NEW JERSEY)	DOCKET NO. CE99090706

Schenck, Price, Smith and King, Morristown, New Jersey, by Sidney Sayovitz, Esq., for the Petitioner.

Acting Township Clerk, Township of Teaneck, New Jersey, by Rochelle Reid-Fowler, for the Township.

BY THE BOARD:

On January 5, 1978, the Board granted Micro-Cable Communications Corp. d/b/a UA-Columbia Cablevision of New Jersey ("Petitioner") a Certificate of Approval in Docket No. 7610C-6216, for the construction, operation and maintenance of a cable television system for the Township of Teaneck ("Township"). On July 15, 1988, the Board granted the Petitioner a Renewal Certificate of Approval for the Township in Docket No. CE88030444. Subsequently, the Petitioner underwent internal restructuring and was doing business as United Artists Cable of New Jersey.

In Docket No. CO92080822, the Petitioner informed the Board that it would do business as TCI of Northern New Jersey. On November 16, 1992, the Board approved the petition and recognized the name change. The Petitioner underwent further restructuring and informed the Board that it would no longer use the name Micro-Cable Communications Corp. and would now use the corporate name of TCI of Northern New Jersey, Inc. Subsequent to the filing of the petition, the Petitioner transferred the Certificate of Approval for the Township to Cablevision Systems, Inc., in Docket No. CF97090674, approved by the Board on December 17, 1997. On March 18, 1998, the Board granted the Petitioner an Amendment to its Renewal Certificate of Approval in Docket No. CE98010038 for a term of 18 months. Although the Petitioner's Certificate expired on July 5, 1999, it is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Township on November 5, 1998, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner on June 29, 1999. The Petitioner formally accepted the terms of the ordinance on July 8, 1999.

On September 14, 1999, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a Renewal Certificate of Approval for the Township. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years. The Office of Cable Television finds this period to be of reasonable duration.
5. The Township may review the performance of the Petitioner with regard to the ordinance at any time, but during the fourth year of the franchise on or before 2003, the Township shall undertake a review to determine whether the Petitioner has substantially complied with the terms and conditions of the ordinance. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, it must provide written notice and opportunity to cure to the Petitioner. If, after such reasonable notice and opportunity to cure, the Petitioner still has not cured any such findings of non-compliance, the Township may petition the Board for appropriate administrative action.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(a), the ordinance specifies a complaint officer. In this case it is the Municipal Manager. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
8. The Petitioner shall maintain a local business office for the purpose of receiving, investigating and resolving complaints. The current local office is located at 40 Potash Road in the Borough of Oakland.

9. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner has committed to install cable in all residences and businesses located in the public rights-of-way in the Township at tariffed rates for standard and non-standard installation.
11. The Petitioner has agreed to rebuild its cable system serving the Township to a minimum of 750 MHz, 85 channels, no later than June 1, 2001. The Petitioner has agreed to activate and operate its system serving the Township by this date.
12. The Petitioner has agreed to provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application. Specifically, the Petitioner shall provide two channels, which are shared by the Township with neighboring municipalities as well as studio facilities. The Petitioner shall maintain all modulators, wiring and reverse cable drops in good working order and shall provide expertise to help insure that Township equipment is compatible with the Petitioner's system.
13. The Petitioner shall provide to the Township within 120 days from the date of this Certificate, the equipment listed in Schedule "A" of the Township's municipal ordinance. The Petitioner shall provide technical assistance in setting up this equipment, training in its use and assistance in the maintenance of the equipment. During the fifth year of the franchise, upon request of the Township, the Petitioner shall inspect and evaluate the equipment provided to determine if an upgrade is needed. The Petitioner shall replace or repair any equipment that no longer operates, provided that the equipment's failure was not due to improper use. The Petitioner shall not pass along the costs of fulfilling this requirement to the Township's subscribers.
14. The Petitioner shall continue to maintain and staff a studio in the Township. The current location of this facility is 1404 Queen Anne Road. The Petitioner shall also reinstate the ability to cablecast directly from the studio within one year from the date of this Certificate.
15. The Petitioner shall provide residents of the Township with a 12-week training course to provide practical and technical expertise on how to tape and broadcast Township events. Upon completion of the training course, the Petitioner shall provide time on the access channels for broadcasting of meetings and events within the Township. The Petitioner shall also respond to requests for coverage of events within 15 business days of request by the Township or the Board of Education.

16. The Petitioner shall provide the standard installation and basic monthly service, free of charge, to the following schools: Eugene Field School, Whittier School, Hawthorne School, Bryant School, Lowell School, Thomas Jefferson Middle School, Benjamin Franklin Middle School and Teaneck High School, and to the following Township buildings: Municipal Building Teaneck Public Library, Richard Rodda Community Center, police headquarters, fire headquarters; Volunteer Ambulance Corps, new Department of Public Works when built, and the Records Center Building when converted to the Municipal Court Center. The Petitioner had agreed to provide the above by November 1, 1999. The Petitioner has confirmed that this has been completed.
17. The Petitioner shall provide one free Internet access connection to each public and private school in the Township once the service becomes commercially available to residents. If the Petitioner's policies change so that free Internet access connection is available to municipal buildings, the Petitioner shall provide the service in the Township.
18. The Petitioner shall provide a performance bond of \$100,000.00 for the period of construction, scheduled to be completed by June 1, 2001. For the remainder of the franchise term, the Petitioner shall provide a performance bond of \$25,000.00, pursuant to N.J.S.A. 48:5A-28(d).

It is to be noted herein that the Township's municipal consent ordinance requires a performance bond in the amount of \$100,000.00 during the period of construction. The Cable Television Act requires that, within its application for municipal consent, a cable company must include evidence of a commitment for a performance bond in an amount of not less than \$25,000.00, pursuant to N.J.S.A. 48:5A-28(d). Although the municipality must approve the amount, the sufficiency and reasonableness of the performance bond is subject to review and approval by the Board. The purpose of the performance bond is to ensure all undertakings as promised in the municipal consent application and the ordinance.

The Petitioner has accepted the ordinance in its entirety. The Office of Cable Television has reviewed the issue and recommended that the Board approve the provision for a \$100,000.00 performance bond during the period of construction. Therefore, this Renewal Certificate of Approval confirms that the Petitioner shall provide a performance bond in the amount of \$100,000.00 until construction is completed within the municipality. Upon completion of construction, the Petitioner shall seek certification from the Township that all work has been performed to its satisfaction. The Petitioner may then apply to the Office of Cable Television for reduction of the performance bond to the statutory minimum of \$25,000.00, which application shall contain a confirmation from the Petitioner that all required work has been completed.

Based upon these findings, the Board **HEREBY CONCLUDES** pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on July 5, 2009.

DATED: June 7, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

CARMEN J. ARMENTI
COMMISSIONER

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

EDWARD D. BESLOW
ACTING SECRETARY